

1  
2  
3  
4  
5  
6  
7  
8 UNITED STATES DISTRICT COURT  
9 NORTHERN DISTRICT OF CALIFORNIA  
10

11 UNITED STATES OF AMERICA, )  
12 Plaintiff(s), ) No. C07-4222 BZ  
13 v. ) **AMENDED ORDER SCHEDULING**  
14 \$86,150 IN U.S. CURRENCY, ) **COURT TRIAL AND PRETRIAL**  
15 Defendant(s). ) **MATTERS**  
16 ) **(Correcting Date of Pretrial**  
 ) **Conference)**  
 )

17 Following the Case Management Conference, **IT IS HEREBY**  
18 **ORDERED** that the Joint Case Management Statement is adopted,  
19 except as expressly modified by this Order. It is further  
20 **ORDERED** that:

21 1. DATES

22 Trial Date: **Monday, 8/25/2008, 8:30 a.m., 1 - 2 days**

23 Pretrial Conference: **Tuesday, 8/12/2008, 4:00 p.m.**

24 Last Day to Hear Dispositive Motions: **Wednesday, 7/16/2008**

25 Close of Discovery: **Friday, 6/4/2008**

26 2. DISCLOSURE AND DISCOVERY

27 The parties are reminded that a failure to voluntarily  
28 disclose information pursuant to Federal Rule of Civil

1 Procedure 26(a) or to supplement disclosures or discovery  
2 responses pursuant to Rule 26(e) may result in exclusionary  
3 sanctions. Thirty days prior to the close of non-expert  
4 discovery, lead counsel for each party shall serve and file a  
5 certification that all supplementation has been completed.

6 In the event a discovery dispute arises, **lead counsel** for  
7 each party shall meet in person or, if counsel are outside the  
8 Bay Area, by telephone and make a good faith effort to resolve  
9 their dispute. Exchanging letters or telephone messages about  
10 the dispute is insufficient. The Court does not read  
11 subsequent positioning letters; parties shall instead make a  
12 contemporaneous record of their meeting using a tape recorder  
13 or a court reporter.

14 In the event they cannot resolve their dispute, the  
15 parties must participate in a telephone conference with the  
16 Court **before** filing any discovery motions or other papers.  
17 The party seeking discovery shall request a conference in a  
18 letter filed electronically not exceeding two pages (with no  
19 attachments) which briefly explains the nature of the action  
20 and the issues in dispute. Other parties shall reply in  
21 similar fashion within two days of receiving the letter  
22 requesting the conference. The Court will contact the parties  
23 to schedule the conference.

### 24 3. MOTIONS

25 Consult Civil Local Rules 7-1 through 7-5 and this  
26 Court's standing orders regarding motion practice. Motions  
27 for **summary judgment** shall be accompanied by a statement of  
28 the material facts not in dispute supported by citations to

1 admissible evidence. The parties shall file a joint statement  
2 of undisputed facts where possible. If the parties are unable  
3 to reach complete agreement after meeting and conferring, they  
4 shall file a joint statement of the undisputed facts about  
5 which they do agree. Any party may then file a separate  
6 statement of the additional facts that the party contends are  
7 undisputed. A party who without substantial justification  
8 contends that a fact is in dispute is subject to sanctions.

9 4. SETTLEMENT

10 This case has referred to the Honorable Maria-Elena James  
11 to conduct a settlement conference that is set to go forward  
12 on April 3, 2008. The parties should promptly notify the  
13 court whether the case is resolved at the settlement  
14 conference.

15 5. PRETRIAL CONFERENCE

16 Not less than thirty days prior to the date of the  
17 pretrial conference, the parties shall meet and take all steps  
18 necessary to fulfill the requirements of this Order.

19 Not less than twenty-one days prior to the pretrial  
20 conference, the parties shall: (1) serve and file a joint  
21 pretrial statement, containing the information listed in  
22 **Attachment 1**, and a proposed pretrial order; (2) serve and  
23 file trial briefs, Daubert motions, proposed findings of fact  
24 and conclusions of law, and statements designating excerpts  
25 from discovery that will be offered at trial (specifying the  
26 witness and page and line references); (3) exchange exhibits,  
27 agree on and number a joint set of exhibits and number  
28 separately those exhibits to which the parties cannot agree;

1 (4) deliver all marked trial exhibits directly to the  
2 courtroom clerk, Ms. Scott; (5) deliver one extra set of all  
3 marked exhibits directly to Chambers; and (6) submit all  
4 exhibits in three-ring binders. Each exhibit shall be marked  
5 with an exhibit label as contained in **Attachment 2**. The  
6 exhibits shall also be separated with correctly marked side  
7 tabs so that they are easy to find.

8 No party shall be permitted to call any witness or offer  
9 any exhibit in its case in chief that is not disclosed at  
10 pretrial, without leave of Court and for good cause.

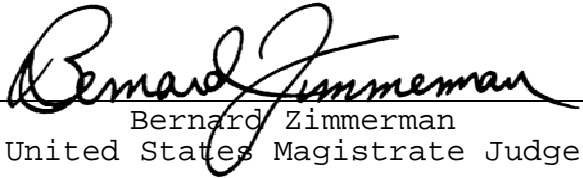
11 Lead trial counsel for each party shall meet and confer  
12 in an effort to resolve all disputes regarding anticipated  
13 testimony, witnesses and exhibits. All Daubert motions will  
14 be heard at the pretrial conference. Not less than eleven  
15 days prior to the pretrial conference, the parties shall serve  
16 and file any objections to witnesses or exhibits or to the  
17 qualifications of an expert witness. Daubert motions shall be  
18 filed and served not less than twenty-one days prior to the  
19 conference. Oppositions shall be filed and served not less  
20 than eleven days prior to the conference. There shall be no  
21 replies.

22 All motions, proposed findings of fact and conclusions of  
23 law and trial briefs shall be e-mailed in WordPerfect or Word  
24 format to the following address: bzpo@cand.uscourts.gov.

25 At the time of filing the original with the Clerk's  
26 Office, two copies of all documents (but only one copy of the  
27 exhibits) shall be delivered directly to Chambers (Room 15-  
28 6688). Chambers' copies of all pretrial documents shall be

1 three-hole punched at the side, suitable for insertion into  
2 standard, three-ring binders.

3 Dated: March 4, 2008

4  
5   
6 Bernard Zimmerman  
United States Magistrate Judge

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20 G:\BZALL\BZCASES\USA V. \$86,150 IN U.S. CURRENCY\AMENDED TRIAL SCHEDULING ORDER.wpd  
21  
22  
23  
24  
25

26 **EXAMPLE PROPOSED JURY INSTRUCTION**  
27 **For Chambers of Magistrate Judge Zimmerman**

28 A proposed jury instruction should contain the following  
elements in the following order: (1) the name of the party  
submitting the instruction; (2) the title of the instruction;

1 (3) the text of the instruction; (4) the authority for the  
2 instruction; (5) blank boxes for the Court to note whether it  
3 gives the instruction, refuses to give it, or gives it as  
modified. The following proposed instruction contains these  
elements.

---

4  
5 \_\_\_\_\_'s Proposed Instruction No. \_\_\_\_\_.  
6 (Party)

7 [Title]

8  
9 [Text]

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20 [Authority]

21 \_\_\_\_\_ GIVEN \_\_\_\_\_ REFUSED \_\_\_\_\_ GIVEN AS MODIFIED  
22  
23  
24  
25  
26  
27  
28

1                    **ATTACHMENT 1**

2            The parties shall file a joint pretrial conference  
3 statement containing the following information:

4            (1) **The Action.**

5                    (A) Substance of the Action. A brief  
6 description of the substance of  
claims and defenses which remain  
to be decided.

7                    (B) Relief Prayed. A detailed  
8 statement of each party's  
9 position on the relief claimed,  
10 particularly itemizing all  
11 elements of damages claimed as  
well as witnesses, documents or  
other evidentiary material to be  
presented concerning the amount  
of those damages.

12           (2) **The Factual Basis of the Action.**

13                    (A) Undisputed Facts. A plain and  
14 concise statement of all  
15 relevant facts not reasonably  
16 disputable, as well as which  
17 facts parties will stipulate for  
incorporation into the trial  
record without the necessity of  
supporting testimony or  
exhibits.

18                    (B) Disputed Factual Issues. A plain  
19 and concise statement of all  
20 disputed factual issues which  
remain to be decided.

21                    (C) Agreed Statement. A statement  
22 assessing whether all or part of  
the action may be presented upon  
an agreed statement of facts.

23                    (D) Stipulations. A statement of  
24 stipulations requested or  
proposed for pretrial or trial  
purposes.

25           (3) **Trial Preparation.**

26            A brief description of the efforts the parties have made  
27 to resolve disputes over anticipated testimony, exhibits and  
28 witnesses.

                  (A) Witnesses to be Called. In lieu

1 of FRCP 26(a)(3)(A), a list of  
2 all witnesses likely to be  
3 called at trial, other than  
4 solely for impeachment or  
5 rebuttal, together with a brief  
6 statement following each name  
7 describing the substance of the  
8 testimony to be given.

9 (B) Estimate of Trial Time. An  
10 estimate of the number of court  
11 days needed for the presentation  
12 of each party's case, indicating  
13 possible reductions in time  
14 through proposed stipulations,  
15 agreed statements of facts, or  
16 expedited means of presenting  
17 testimony and exhibits.

18 (C) Use of Discovery Responses. In  
19 lieu of FRCP 26(a)(3)(B), cite  
20 possible presentation at trial  
21 of evidence, other than solely  
22 for impeachment or rebuttal,  
23 through use of excerpts from  
24 depositions, from interrogatory  
25 answers, or from responses to  
26 requests for admission. Counsel  
27 shall state any objections to  
28 use of these materials and that  
counsel has conferred respecting  
such objections.

(D) Further Discovery or Motions. A  
statement of all remaining  
motions, including motions in  
limine.

**(4) Trial Alternatives and Options.**

(A) Settlement Discussion. A  
statement summarizing the status  
of settlement negotiations and  
indicating whether further  
negotiations are likely to be  
productive.

(B) Amendments, Dismissals. A  
statement of requested or  
proposed amendments to pleadings  
or dismissals of parties, claims  
or defenses.

(C) Bifurcation, Separate Trial of  
Issues. A statement of whether  
bifurcation or a separate trial



1                   of specific issues is feasible  
2                   and desired.

3           (5) **Miscellaneous.**

4           Any other subjects relevant to the trial of the action,  
5           or material to its just, speedy and inexpensive determination.  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ATTACHMENT 2

**USDC**

Case No. CV07-4998 BZ

**JOINT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**JOINT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**JOINT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**JOINT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-3854 BZ

**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**PLNTF** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**DEFT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**DEFT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**DEFT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_

**USDC**

Case No. CV07-4998 BZ

**DEFT** Exhibit No. \_\_\_\_\_

Date Entered \_\_\_\_\_

Signature \_\_\_\_\_